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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,895	12/30/2005	Alain Bejean	94176	9332
24628 7590 02/03/2009 Husch Blackwell Sanders, LLP Husch Blackwell Sanders LLP Welsh & Katz 120 S RIVERSIDE PLAZA 22ND FLOOR CHICAGO, IL 60606				
EXAMINER				
HENNING, MATTHEW T				
ART UNIT		PAPER NUMBER		
2431				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/532,895

**Applicant(s)**

BEJEAN, ALAIN

**Examiner**

MATTHEW T. HENNING

**Art Unit**

2431

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

This action is in response to the communication filed on 4/27/2005.

**DETAILED ACTION**

Claims 1-11 have been examined.

***Title***

The title of the invention is acceptable.

***Information Disclosure Statement***

The information disclosure statement(s) (IDS) submitted on 8/22/2005 are in compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner is considering the information disclosure statements.

***Drawings***

The drawings filed on 12/30/2008 are acceptable for examination proceedings.

***Claim Objections***

Claims 10-11 are objected to because of the following informalities:

Claims 10 and 11 recite "the standardized dimensions of a sheet of paper" which lacks antecedent basis in the claim.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 10-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "substantially equal" in claims 10 and 11 is a relative term which renders the claim indefinite. The term "substantially equal" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. In this case, one of ordinary skill in the art would not be able to determine what size would be "substantially equal to the standardized dimensions of a sheet of paper". Furthermore, the specification provides no insight as to what "the standardized dimensions of a sheet of paper" are equal to, and as there are many different sizes for paper, the ordinary person skilled in the art would not be able to deduce the scope of the claim language. As such, the claims are rejected under 35 USC 112 2<sup>nd</sup> Paragraph for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. For the purposes of searching prior art, because the specification provides no insight into the intended scope of this limitation, the examiner will assume that any size falls within the scope of this limitation.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

*A person shall be entitled to a patent unless –*

*(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.*

Claims 1-11 are rejected under 35 U.S.C. 102(b) as being anticipated by FR 2727553 for the reasons provided in the international search report for PCT/IB2003/005073.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

*A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.*

Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heitschel et al. (US Patent Number Re. 35,364) hereinafter referred to as Heitschel, and further in view of Bruwer (US Patent Number 6,191,701).

Regarding claim 1, a method of securing the learning mode of a device (receiver) comprising an assembly of at least one command transmitter (transmitter), communicating with a command receiver capable of driving an element providing for the security and/or the comfort of a building and capable of being switched to learning mode by one or more activation functions (Heitschel Abstract and Col. 3 Lines 41-59), wherein one or more actions of which at least one is applied causes the disabling of at least one function of activation of the learning mode of the command receiver (Heitschel Col. 3 Line 60 - Col. 4 Line 22), but Heitschel did not disclose that the “action” was applied to a particular command transmitter of the assembly in order to disable the learning mode.

1 Bruwer, on the other hand, teaches that in order to improve the security of a  
2 programmable receiver (decoder), instead of activating the learning mode on the receiver, a  
3 master transmitter (master encoder) can be used to set the learning mode (Bruwer Col. 7 Line 62  
4 – Col. 8 Line 5).

5 It would have been obvious to the ordinary person skilled in the art at the time of  
6 invention to have employed the teachings of Bruwer in the coding system of Heitschel by  
7 providing a master transmitter which is used to switch between the operating mode and the  
8 programming mode. This would have been obvious because the ordinary person skilled in the  
9 art would have been motivated to improve the security of the coding system.

10 Regarding claim 2, Heitschel and Bruwer taught that the actions are undertaken  
11 successively or simultaneously on at least one secure command transmitter and on at least one  
12 other command transmitter (See Bruwer Col. 7 Line 62 – Col. 8 Line 5 and Heitschel Col. 3 Line  
13 60 – Col. 4 Line 22).

14 Regarding claim 3, Heitschel and Bruwer taught that the action or actions on the secure  
15 command transmitter activate the learning mode of the receiver (Bruwer Col. 7 Line 62 – Col. 8  
16 Line 5).

17 Regarding claim 4, Heitschel and Bruwer taught that the action or actions on the secure  
18 command transmitter disable the functions of activation of the learning mode with the exception  
19 of those of the secure command transmitters (See Bruwer Col. 7 Line 62 – Col. 8 Line 5 and  
20 Heitschel Col. 3 Line 60 – Col. 4 Line 22).

21 Regarding claim 5, Heitschel and Bruwer taught that the disabling of the activation  
22 function is irreversible (Bruwer Col. 7 Line 62 – Col. 8 Line 5).

Regarding claim 6, Heitschel and Bruwer taught that the disabling of the activation function is temporary (Heitschel Col. 3 Line 60 - Col. 4 Line 22).

Regarding claim 7, Heitschel and Bruwer taught that an action on a secure command transmitter causes, in the memory of the receiver, the erasure of the identity numbers of at least certain transmitters (Heitschel Col. 5 Lines 3-5).

Regarding claim 8, Heitschel and Bruwer taught a device intended to implement the method as claimed in claim 1, which device comprises at least one secure command transmitter (master transmitter), and possibly other command transmitters, communicating with a command receiver capable of driving an element providing for the security and/or the comfort of a building (See Bruwer Col. 7 Line 62 – Col. 8 Line 5 and Heitschel Col. 3 Line 60 – Col. 4 Line 22).

Regarding claim 9, Heitschel and Bruwer taught that the secure command transmitters comprise wireless means of remote communication with the command receiver (See Bruwer Col. 7 Line 62 – Col. 8 Line 5 and Heitschel Col. 3 Line 60 – Col. 4 Line 22).

Regarding claims 10-11, Heitschel and Bruwer taught that the secure command transmitters have two dimensions substantially equal to the standardized dimensions of a sheet of paper (Heitschel Fig. 1).

### ***Conclusion***

Claims 1-11 have been rejected.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW T. HENNING whose telephone number is (571)272-3790. The examiner can normally be reached on M-F 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached on (571) 272-3859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Matthew T Henning/  
Examiner, Art Unit 2431